

Article Nine

Processes, Permits and Fees



August 12, 2003
© 2003, Bradley E. Johnson, AICP

Article Nine

Processes, Permits, and Fees

9.1 Types of Petitions

The following section recognizes and outlines each of the permit, formal approval and appeals.

- A. The Plan Commission hereby requires that an application and filing fee be submitted for the following formal petitions (permits, formal approvals, and appeals):
 - Improvement Location Permit
 - Certificate of Occupancy
 - Sign Permit
 - Development Plan Approval
 - Development Standard Variance
 - Special Exception
 - Zoning Amendments (rezoning)
 - Planned Development
 - Administrative Appeal
 - Questionable Land Use Appeal
- B. All application forms may be obtained through the Planning Director's office. Fees shall be paid at the Planning Director's office at the time of submission of the application.
- C. A project shall not proceed without first successfully being granted the applicable permits, formal approvals, and/or appeals. Any project that proceeds otherwise is subject to fines, penalties and court action (see Article Ten).

Improvement Location Permit

9.2 Improvement Location Permit

The following procedure applies to an improvement location permit petition.

- A. The City of Kokomo hereby requires that an improvement location permit be obtained for the:
 - a. Erection of a structure or building.
 - b. Relocation of a structure or building.
 - c. Addition to a structure or building.
 - d. Structural alteration of a structure or building.
 - e. Use of a lot.
 - f. Changes of use.
 - g. Expansion of use.
 - h. Filling of land altering the existing natural drainage.
- B. No Improvement Location Permit shall be issued by the Planning Director unless the project is in conformity with the provisions of this Ordinance.
- C. The following information must be presented with the application for an improvement location permit:
 - a. The common address for the subject lot and parcel number,
 - b. A site location map showing the context around the subject lot,
 - c. Plans drawn to scale showing the actual dimensions and shape of the lot to be built upon or used,
 - d. The exact sizes and locations of all structures, buildings, wells, and septic systems already existing,
 - e. The location and dimensions of the proposed building(s) or alteration, or use, including changes to all paved areas,
 - f. Setback distances from all property lines, and from existing and proposed road right of ways,
 - g. Width and length of all entrances and exits to and from the lot, and
 - h. Location of floodplain boundaries or wetlands.
- D. The Plan Commission or Planning Director may require additional information to be submitted with the application to determine conformance with and provide for the enforcement of this Zoning Ordinance including but not limited to:
 - a. Elevations of the existing or proposed building or alteration,
 - b. Detailed description of the existing or proposed uses of the building and land,
 - c. The number dwelling units or rental units the building is designed to accommodate,
 - d. Utility locations and sizes,
 - e. Landscape plan,
 - f. Lighting Plan, and
 - g. Copy of drainage approval (if applicable).
- E. The approved plans and application materials are retained by the Plan Commission. The Plan Commission or Planning Director may require site plans to be prepared by a land surveyor, architect or engineer licensed in the State of Indiana.
- F. Expiration of Permits:
 - a. If the work described in any improvement location permit has not begun within 12 months from the date of issuance, said permit shall expire. No written notice shall be given to the persons affected.
 - b. Completion of Work: If the work described in any Improvement Location Permit has not been completed within 2 years of the date of issuance, said permit shall expire. No written notice of expiration shall be given to the persons affected. Work shall not proceed unless and until a new Improvement Location Permit has been obtained.

Improvement Location Permit (Continued)

- c. The Planning Director may give 3 extensions for up to 3 months each for work completion. Requests for extensions must be received within one (1) month of the expiration. A fee will be charged.
- G. Improvement location permits issued on the basis of plans and applications submitted only authorize the use, arrangement, and construction set forth in such approved plans and applications. Any other use, arrangement, or construction not authorized shall be deemed as a violation of this ordinance and subject to a stop work order, an order of removal, mitigation, or fines and penalties.
- H. Exempt: The following activities are permitted without an improvement location permit, provided all other applicable standards are met.
 - a. Normal plowing and preparing the land for farming, gardens, and yards.
 - b. Trimming and/or removal of trees and shrubs for maintenance and/or site preparation.
 - c. Earth movement related to farming and other agricultural activity.
 - d. Drain tile laying and ditch maintenance.

Certificate of Occupancy

9.3 Certificate of occupancy

The following regulations and procedures apply to receive a Certificate of occupancy.

- A. The City of Kokomo hereby requires that a certificate of occupancy be obtained prior to a building being occupied or utilized for each of the following situations:
 - a. Erection of a new single family residence, multifamily building, business building, industrial facility, or similar building that people will occupy permanently or temporarily.
 - b. Build-out of a flex commercial, flex office, flex industrial space, or the like.
 - c. Relocation of a single family residence, multifamily building, business building, industrial facility, or similar building that people will occupy permanently or temporarily.
 - d. Addition to a single family residence, multifamily building, business building, industrial facility, or similar building that people will occupy permanently or temporarily. Parts of an existing building that are not a part of the addition may continue to be occupied.
 - e. Change in the use of an existing building.
 - f. Or similar situations in which the Planning Director requires a certificate of occupancy.
- B. The City of Kokomo also requires that a certificate of occupancy be obtained prior to a temporary building being occupied or utilized for each of the following types of building:
 - a. Temporary classrooms,
 - b. Sales trailers,
 - c. Model homes,
 - d. Or similar type of building in which the Planning Director requires a certificate of occupancy.
- C. It is unlawful and a violation of this Zoning Ordinance for anyone to occupy or utilize a building until the certificate of occupancy is issued by the Planning Director if required under Sections 9.3 A or B. Anyone who is required to obtain a certificate of occupancy and fails to do so is subject to a stop work order, mitigation and/or fines and penalties.
- D. For a certificate of occupancy to be issued each of the following must be successfully completed.
 - a. Legally obtain an improvement location permit and building permit.
 - b. Pass a final inspection by the Building Inspector.
 - c. Submit an application for the certificate of occupancy to be issued.
 - d. Receive approval from the Planning Director.
- E. A certificate of occupancy shall be issued after all requirements of the improvement location permit have been completed. However, due to weather or other circumstances, a temporary certificate of occupancy, for a period not to exceed 12 months, may be issued without the required (a) landscaping, (b) building finishes, (c) parking lot finishes, or the like provided some sort of surety has been posted to satisfy the Planning Director.

Sign Permit

9.4 Sign Permit

The following procedure applies to sign permit petitions for permanent signs.

- A. An application for a permit shall be filed with the Planning Director and shall be accompanied by information as may be required by the Planning Director to assure compliance with the laws and regulations of the Zoning Ordinance, including, but not limited to:
 - Name and address of the owner of the lot on which the sign is located or is to be located.
 - Name and address of the owner of the sign (if different).
 - Drawings of the sign with the dimensions drawn to scale.
 - Drawing of the lot showing the proposed location of the sign with lot and sign dimensions drawn to scale.
 - Description of the sign, including the materials, lighting and structure to be used.
 - The size and location of all signs on the same lot or owned or leased by the petitioner.
- B. An application for a permit shall be reviewed and approved by the Planning Director.
- C. If any sign is erected, placed, installed or otherwise established on any property before obtaining a permit as required herein, the sign shall be in violation of the Zoning Ordinance and subject to a stop work order, an order of removal, mitigation, and/or fines and penalties.
- D. A sign permit issued under the provisions of this Zoning Ordinance shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.
- E. A sign permit shall become null and void if work has not been started within 6 months of the date of the permit or completed within 12 months of the date of the permit.
- F. The following shall not be required to have a sign permit unless otherwise specified.
 - a. Changeable Copy - The changing of copy (text) on a sign or portion of a sign, unless said change alters the size, height, or bulk of the sign.
 - b. Maintenance - Painting, repainting, cleaning or other normal maintenance and repair of a sign or sign structure, provided the sign area is not altered, the lighting is not made brighter, or the sign's structure is not altered.
 - c. Exempt Signs - exempt signs as described in 6.34 (SI-01).

Temporary Sign Permit

9.5 Temporary Sign Permit

The following procedure applies to sign permit petitions for temporary signs.

- A. An application for a permit shall be filed with the Planning Director and shall be accompanied by information as may be required by the Planning Director to assure compliance with the laws and regulations of the Zoning Ordinance, including, but not limited to:
 - Name and address of the owner of the lot on which the sign is to be located.
 - Name and address of the owner of the sign.
 - Clear and legible drawings or photographs of the temporary sign with the dimensions.
 - Clear and legible drawing of the lot showing the proposed location of the sign and drawn to scale.
 - Description of the device to be used (structure, lighting, attachments, etc.).
 - Period of time the device is intended to be used.
- B. An application for a permit shall be reviewed and approved by the Planning Director.
- C. If any sign is erected, placed, installed or otherwise established on any property before obtaining a permit as required herein, the sign shall be in violation of the Zoning Ordinance and subject to a stop work order, an order of removal, mitigation, and/or fines and penalties.

Development Plan Approval

9.6 Development Plan Approval:

The following procedure applies to development plan petitions.

A. Development Plan Approval Authority

The Planning Director has been delegated the authority to approve certain development plan approvals. All other development plan approvals must be approved by the Planning Commission. The types of development plan approvals delegated to the Planning Director are outlined later in this section.

B. Development Plan Approval Process for Petitions Delegated to the Planning Director

- a. Applicants are encouraged to submit a conceptual site plan to the Planning Director for an informal conference to discuss the existing conditions of the site and the proposed development.
- b. No later than 15 days after receiving a conceptual site plan and other data, Planning Director will return a copy of said plan to the applicant with recommendations.
- c. All development plan approval petitions shall:
 1. Make known any requests for waiver of development requirements in connection with a development plan approval on the application form and submit supporting information with the application or the waiver will not be considered.
 2. Include all relevant plan and documentation as required below.
- d. The Planning Director may refer any proposed development to the Plan Commission if the Planning Director decides the full Commission review is warranted. Upon referral to the Plan Commission, the petition will follow the process set forth in Section 9.6 C
- e. Any development plan approval which has been delegated to the Planning Director may occur without public notice and without a public hearing.
- f. The Planning Director will have 45 days from the date of filing to approve or disapprove a development plan petition in writing.
- g. Any interested party may appeal the decision of the Planning Director to the Plan Commission within 30 days of the written decision.
- h. The Planning Director may impose conditions or require written commitment as a condition of approval, if the conditions are reasonably necessary to satisfy the intent of the Kokomo Comprehensive Plan or Zoning Ordinance.
- i. The Planning Director may require the applicant to furnish a surety that guarantees the timely completion of a proposed public improvement in the development plan petition. The surety must be satisfactory to the City of Kokomo.
- j. The Planning Director shall make and sign written findings concerning each decision to approve or disapprove a development plan. The findings of fact must support the following statements.
 1. Is consistent with the Comprehensive Plan,
 2. Is consistent with the intent of the zoning district, as described in Article Three, and
 3. Satisfies the intent of this Zoning Ordinance.

C. Development Plan Approval Process for Petitions Going to the Planning Commission

- a. The applicant is encouraged to submit a conceptual site plan to the Planning Director for an informal conference to discuss the existing conditions of the site and the proposed development.
- b. No later than 15 days after receiving a conceptual site plan and other data, Planning Director will return a copy of said plan to the applicant with recommendations.
- c. All development plan approval petitions shall:
 1. Be filed at least eighteen (18) days prior to the initial date at which they are to be considered by the Plan Commission or Technical Advisory Commission.

Development Plan Approval (Continued)

2. Make known any requests for waiver of development requirements in connection with a development plan approval on the application form and submit supporting information with the application or the waiver will not be considered.
 3. Include all relevant plan and documentation as required below.
 4. Submit one copy of the Plan Commission Development Plan Approval checklist with items checked off indicating their completion and that they are shown on the plans as applicable. Failure to complete or show items checked off may result in continuance of the petition until the following regularly scheduled Plan Commission meeting.
 5. The Plan Commission shall determine if the Development Plan site is in a flood plain. The Plan Commission will follow the procedures of the Flood Hazard Areas Ordinance, No. 5959, as amended, Section 6, for any site located in a flood plain before setting the date for hearing the petition.
- d. Any development plan approval the Plan Commission reviews shall have a public hearing. Notification of public hearing will be as outlined in Section 9.20.
 - e. The Plan Commission shall either approve, disapprove or continue consideration of the proposed development plan petition.
 - f. The Plan Commission may impose conditions or require written commitments as a condition of approval if they are reasonably necessary to satisfy the development requirements specified in this Article.
 - g. The Plan Commission may require the applicant to furnish a surety that guarantees the timely completion of a proposed public improvement in the development plan petition. The surety must be satisfactory to the City of Kokomo.
 - h. The Plan Commission will make written findings concerning each decision to approve or disapprove a development plan. The Planning Director is responsible for signing written findings of the Plan Commission. The findings of fact must support the following statements.
 1. The project is consistent with the Comprehensive Plan,
 2. The project is consistent with the intent of the subject zoning district, as described in Article Three, and
 3. The project satisfies the intent of this Zoning Ordinance.
- D. Amendments and Minor Modifications
- a. The applicant may amend the development plan prior to a vote by the Plan Commission. If the Plan Commission feels that the proposed amendment needs additional time for review; the Plan Commission may continue the consideration until the next Plan Commission Meeting.
 - b. The applicant may amend the development plan anytime prior to determination by the Planning Director. If the Planning Director feels that the proposed amendment needs additional time for review; the amended development plan may be considered a new filing and reviewed within the time frame set forth above for the review of development plans by the Planning Director.
 - c. Minor Modifications to an approved development plan may be approved by the Planning Director if the modification is in the spirit and intent of the overall development and does not involve:
 1. an increase in height, area, bulk or intensity of land uses,
 2. the designation of additional land uses,
 3. the reduction of buffer yards,
 4. the addition of driveways or access points, or
 5. the reduction of parking for any use.

Development Plan Approval (Continued)

- d. The Planning Director shall report in writing to the Plan Commission the authorized minor modifications. Any interested party may appeal a decision of the Planning Director regarding the minor modification of an approved development plan to the Plan Commission within 30 days of the decision.
- E. Multifamily Residential, Commercial, and Industrial Development Plans
Intent: To promote innovative and creative design in higher density residential districts in order to further enhance the quality of life for the citizens of Kokomo.
 - a. In proposed developments, the Plan Commission must review the development plan. These development plan approval processes are required to submit:
 - 1. Site Plan (see Section 9.6.F for more information)
 - 2. Building elevations (see Section 9.6.G for more information)
 - 3. Sign Plan (see Section 9.6.H for more information)
 - 4. Lighting Plan (see Section 9.6.I for more information)
 - 5. Landscape Plan (see Section 9.6.J for more information)
 - b. In order to receive development plan approval, the applicant must satisfy all of the development standards of the proper district. In addition, the following development standards apply.
 - 1. *Signage*: All signs must be designed to create a unified and consistent sign package for the development.
 - 2. *Interior private roads*: Interior private roads must meet construction criteria for public roads. Road widths may vary from the City's standards, so long as emergency access is possible.
 - 3. *Traffic Management*: The design and location of proposed street access points must minimize congestion. The entrances, streets and internal traffic facilities must be compatible with existing and planned streets in adjacent developments. Additional driveways may be required to ensure safe emergency access based on fire department and City Engineer review.
 - 4. *Traffic circulation pattern*: The design and layout of the development must have a clear circulation pattern that is sensitive to topography and other natural features.
 - 5. *Lighting*: All lighting must be designed to create a unified and consistent lighting package for the development. Lighting standards in parking areas may not exceed 20 feet in height. All lighting must have cutoff luminaires (shielded down lighting), and be consistent with the architectural style of the primary building.
 - 6. *Variation in housing design*: In order to prevent monotony and improve orientation, at least every third structure must vary in design and color.
 - 7. *Open Space*: Developments that are 5 or more acres must have a minimum of 10% of the total lot area developed as usable open space and be accessible to all residents within the development and their guests by way of sidewalk or other finished footpath.
- F. Site Plan Data
A site plan submitted in pursuit of development plan approval shall be drawn to a scale of not more than 1 inch equals 100 feet and shall include the following information. The Planning Director at his/her discretion may waive or relax any of the site plan requirements below, as circumstances dictate.
 - a. Description:
 - 1. Name and address of the applicant.
 - 2. Proof of ownership.
 - 3. Proposed name of development (if applicable).
 - 4. Address of the site.
 - 5. Legal description of the real estate.

Development Plan Approval (Continued)

6. Name and address of land surveyor.
7. Legend and notes, including a graphic scale, north point, and date.
- b. Existing and Proposed conditions:
 1. Boundary line of site indicated by a solid heavy line including all dimensions of the site.
 2. Layout, number and dimensions of lots.
 3. Building setback lines.
 4. Location and dimensions of all existing structures including paved areas.
 5. Location and dimensions of all proposed structures including paved areas indicated by cross-hatching.
 6. Layouts of existing and proposed streets, alleys and access easements; including their names, within 200 feet of the development. The names of streets shall conform so far as practicable to the names of streets on the same approximate alignment existing in the vicinity of the development.
 7. Location of any proposed and existing driveway and its width at the lot line.
 8. All proposed improvements to the street system both on and off-site.
 9. Measurement of curb radius and/or taper.
 10. Parcels of land proposed to be dedicated or temporarily reserved for public use or set aside for use in the development such as parks, recreation, conservation areas, wetlands, etc., which shall be designated and labelled as such including dimensions.
 11. Location of natural streams, regulated drains, 100-year floodplains, floodway, water courses, marshes, wooded areas, wetlands, historic features, existing structures, dry wells, utility lines, fire hydrants and any other significant feature(s) that may influence the design of the development.
 12. The species and caliper size at breast height of all trees over (6 inch caliper and all flowering trees and shrubs over 6 feet in height.
 13. All trees and/or shrubs to be preserved. These shall be marked "Do Not Remove". Care should be taken to attempt to preserve all trees with a caliper size of 24 inches at breast height or greater.
 14. Location of orange construction fencing that is required to be installed during construction around the dripline of each tree to be preserved that is marked "DNR".
 15. Location, width and purpose of existing and proposed easements.
 16. Use of each structure including parking labelled with approximate density or size. For example, number of parking spaces required and provided, gross floor area of office or retail space (labelling whether office or retail).
 17. Structures designated to be razed shall be indicated as such.
 18. Distance of all structures including parking from the front, rear and side lot lines. This distance is measured from the point where the structure is closest to the lot lines.
 19. Any other information requested in writing by the Plan Commission or the Planning Director.
 20. Utility lines serving buildings.
 21. Existing and proposed topography.
 22. The outline of buildings and parking lots on adjoining properties within fifty (50) feet of the mutual property line.
 23. Outline of any driveways across the streets from the property and within 100 feet of the side property lines.

Development Plan Approval

(Continued)

G. Building Elevation Data

Building elevations submitted in pursuit of development plan approval shall include the following information. The Planning Director may waive or relax any of the building elevation requirements below, as circumstances dictate.

- a. Description:
 - 1. Proposed name of development (if applicable).
 - 2. Address of the site.
 - 3. Legend and notes, including a graphic scale, and date.
- b. Proposed conditions:
 - 1. Elevations for each facade of the building.
 - 2. Type of building materials to be used for all wall, window, roof and architectural features shall be specified.
 - 3. Proposed colors for all materials and features shall be specified.
 - 4. Any other information requested in writing by the Plan Commission or the Planning Director.

H. Sign Plan Data

Sign Plans submitted in pursuit of development plan approval shall include the following information. The Planning Director may waive or relax any of the Sign Plan requirements below, as circumstances dictate.

- a. Description:
 - 1. Proposed name of development (if applicable).
 - 2. Address of the site.
 - 3. Legend and notes, including a graphic scale, and date.
- b. Existing and Proposed conditions:
 - 1. A site plan indicating the location of any existing and proposed freestanding or ground signs.
 - 2. Elevations of proposed signs including size, materials, color and illumination details.
 - 3. Placement, size, color and illumination details for any existing or proposed wall, projecting or window sign.
 - 4. Any other information requested in writing by the Plan Commission or the Planning Director.

I. Lighting Plan Data

Lighting Plans submitted in pursuit of development plan approval shall include the following information. The Planning Director may waive or relax any of the Lighting Plan requirement below, as circumstances dictate.

- a. Description:
 - 1. Proposed name of development (if applicable).
 - 2. Address of the site.
 - 3. Legend and notes, including a graphic scale, and date.
 - 4. Boundary lines of the site including all dimensions of the site.
- b. Existing and Proposed conditions:
 - 1. Location and dimensions of all existing and proposed structures, parking areas, etc.
 - 2. Type and location of all exterior lighting fixtures, including wattage and type of light.
 - 3. Intensity of lighting at base of light structure and at the lot line measured in foot candles.
Measurements shall be given as if the light meter were facing the center of the property at a

Development Plan Approval (Continued)

height of 6 feet.

4. If building lighting is proposed, elevations for each facade of the building indicating the location, type and intensity of lighting at the lot line measured in foot candles. Measurements shall be given as if the light meter were facing the center of the property at a height of 6 feet.
5. Any other information requested in writing by the Plan Commission or the Planning Director.

J. Landscape Plan Data

Landscape Plans submitted in pursuit of development plan approval shall include the following information. The Planning Director may waive or relax any of the Landscape Plan requirements below, as circumstances dictate.

- a. Description:
 1. Proposed name of development (if applicable).
 2. Address of the site.
 3. Legend and notes, including a graphic scale, and date.
 4. Boundary Lines of the site.
- b. Existing and Proposed conditions:
 1. Location and dimensions of all existing and proposed structures, parking areas, etc.
 2. Location of all floodway and floodway fringe areas within the site.
 3. Existing elevations and proposed contour lines at 2 foot intervals
 4. Proposed sidewalk or pedestrian ways
 5. Size, species and spacing (on center) of all proposed landscaping material
 6. Location of any existing and proposed freestanding or ground signs.
 7. Any other information requested in writing by the Plan Commission or the Planning Director.
- c. Preparation of plans by a landscape architect is encouraged.

K. Written Commitments

- a. Any written commitments which are part of a Development Plan approval by the Plan Commission or Planning Director shall take effect upon approval of the Development Plan. Upon approval, the applicant shall record the written commitments. A copy of the recorded written commitment shall be submitted to the Planning Director before issuance of any Improvement Location Permits for the Development Plan.
- b. A written commitment shall be considered a covenant running with the land and is binding on the Development Plan applicant, the owner of the property which is the site of the Development Plan, any subsequent owners of the property, and any person who acquires an interest in the property.
- c. Enforcement – Written commitments may be enforced in accordance with Article 10, Enforcement and Penalties.
- d. Modification and Termination – A written commitment required for a Development Plan approval may be modified or terminated by the Plan Commission at a public hearing. The owner of the property, the Planning Director or the Plan Commission may initiate the request to modify or terminate the written commitment.

Development Standard Variance

9.7 Development Standard Variance:

The following procedure applies to Development Standard Variance Petitions.

- A. The applicant shall submit a variance application, required supportive information, and application fee.
- B. The Board of Zoning Appeals (BZA) will then review:
 - The variance application,
 - Required supportive information,
 - Testimony of the applicant, and
 - Testimony of the public.
- C. At the BZA hearing the Planning Director may submit a report containing factual information about the petition.
- D. The BZA may approve, deny or table the petition (the Board has discretionary powers). The BZA may add conditions to an approval. Approvals shall only be granted upon findings of fact in compliance with IC 36-7-4-900 et seq. and the requirements of this Zoning Ordinance.
- E. The Planning Director shall refuse to accept a petition for a variance within 6 months of the date of the first denial and 12 months from the date of any denial thereafter when said petition involves the same subject matter. However, the Planning Director shall have the authority and discretion to determine that a petition containing major changes may justify re-filing within said 6 and 12 month periods.
- F. The Board may grant a variance from the development standards of this Zoning Ordinance (such as height, bulk, area) if, after a public hearing, it makes findings of facts in writing, that:
 - a. the approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
 - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - c. The strict application of the terms of this Zoning Ordinance will result in a Practical Difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.
- G. The Board may permit or require the owner of a parcel of property to make written commitments and record it in the County Recorder's Office concerning the use or development of that parcel or may impose conditions upon that grant of variance.
- H. A developmental standards variance granted by the Board shall run with the parcel until such time as the property conforms with this Zoning Ordinance as written.
- I. The Board of Zoning Appeals may enforce any condition and/or commitment it has imposed as if it were a standard of this Zoning Ordinance.
- J. Written Commitments
 - a. Any written commitments which are part of a Development Standards Variance approval by the BZA shall take effect upon approval of the Variance. Upon approval, the applicant shall record the written commitments. A copy of the recorded written commitment shall be submitted to the Planning Director before issuance of any Improvement Location Permits for the variance.
 - b. A written commitment shall be considered a covenant running with the land and is binding on the variance applicant, the owner of the property which is the site of the variance, any subsequent owners of the property, and any person who acquires an interest in the property.
 - c. Enforcement – Written commitments may be enforced in accordance with Article 10, Enforcement and Penalties.
 - d. Modification and Termination – A written commitment required for a variance approval may be modified or terminated by the BZA at a public hearing. The owner of the property, the Planning Director or the BZA may initiate the request to modify or terminate the written commitment.

Special Exception

9.8 Special Exception

The following procedure applies to Special Exception Petitions.

- A. The applicant shall submit a Special Exception application, required supportive information, and application fee prior to the regularly scheduled Board of Zoning Appeals meeting.
- B. At their next regularly scheduled public meeting, the BZA shall then review:
 - The special exception application,
 - Required supportive information,
 - Testimony of the applicant, and
 - Testimony of the public.
- C. The BZA may approve, deny, or table the petition. The BZA may add conditions to an approval.
- D. The Planning Director shall refuse to accept a petition for a Special Exception within 6 months of the date of the first denial and 12 months from the date of any denial thereafter when said petition involves the same subject matter. However, the Planning Director shall have the authority and discretion to determine that a petition containing major changes may justify re-filing within said 6 and 12 month periods.
- E. To be eligible for the granting of a special exception under this section, a person must first receive a determination from the Planning Director that a special exception is required for the intended use, change of use or for the expansion, extension, or enlargement of a use.

There shall be no cases or applications, nor any particular situation in which these rules authorize special exceptions without the approval of the BZA. Further, no previous applications shall set a precedence for any other application before the BZA.

- F. The Board may grant a special exception for a use in a district if, after a hearing, it makes findings of facts in writing, that:
 - a. the proposal will not be injurious to the public health, safety, morals, and general welfare of the community;
 - b. the requirements and development standards for the requested use as prescribed by this Zoning Ordinance will be met;
 - c. granting the exception will not subvert the general purposes served by this Zoning Ordinance and will not permanently injure other property or uses in the same district and vicinity; and
 - d. the proposed use will be consistent with the character of the district therein, the spirit and intent of this Zoning Ordinance, and the Kokomo Comprehensive Plan.
- G. When considering a Special Exception the Board of Zoning Appeals may take into consideration the following items as they relate to the proposed use:
 - a. topography and other natural site features;
 - b. zoning of the site and surrounding properties;
 - c. driveway locations, street access and vehicular and pedestrian traffic;
 - d. parking amount, location, design;
 - e. landscaping, screening, buffering;
 - f. open space and other site amenities;
 - g. noise production and hours of operation;
 - h. design, placement, architecture, and building material of the structure;
 - i. placement, design, intensity, height, and shielding of lights;
 - j. traffic generation; and,
 - k. general site layout as it relates to its surroundings.

Special Exception

(Continued)

- H. The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the above criteria will be served.
- I. The Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under IC 36-7-4-921 and have such commitment recorded in the County Recorder's Office.
- J. The Board may limit special exceptions to a specific individual and/or a specific time period and for a specific use.
- K. A use authorized by special exception may not be changed, expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in these rules for granting a special exception.
- L. If the Board grants the special exception, it shall direct the applicant to apply for a Building Permit and/or an Improvement Location Permit within 4 months or the special exception will be void. If such application complies with all Ordinances and rules, a Building Permit and/or an Improvement Location Permit for the use authorized by special exception shall be issued.
- M. A special exception granted for a specific use ceases to be authorized and is void if that use is not 50% established within a twelve-month period of the date the special exception was granted. A special exception, granted for a specific use ceases to be authorized and is void if that use is discontinued at that site for a consecutive 6 months.
- N. A special exception may be terminated by the Board of Zoning Appeals as follows:
 - a. Upon the filing of an application by an interested person or a member of the staff, and after which a public hearing is held with notice to the property owner; and,
 - b. At the public hearing a finding is made by the Board that one or more of the following has not been complied with:
 - The terms of this Zoning Ordinance,
 - The conditions placed on approval, and
 - The written commitments made in conjunction with the original special exception application.
- O. Written Commitments
 - a. Any written commitments which are part of a Special Exception approval by the BZA shall take effect upon approval of the Special Exception. Upon approval the applicant shall record the written commitments. A copy of the recorded written commitment shall be submitted to the Planning Director before issuance of any Improvement Location Permits for the Special Exception.
 - b. A written commitment shall be considered a covenant running with the land and is binding on the Special Exception applicant, the owner of the property which is the site of the Special Exception, any subsequent owners of the property, and any person who acquires an interest in the property.
 - c. Enforcement – Written commitments may be enforced in accordance with Article 10, Enforcement and Penalties.
 - d. Modification and Termination – A written commitment required for a Special Exception approval may be modified or terminated by the BZA at a public hearing. The owner of the property, the Planning Director or the BZA may initiate the request to modify or terminate the written commitment.

Zoning Amendment

9.9 Zoning Amendment

The following procedure applies to Zoning Amendment Petitions (Zoning Map/rezoning).

- A. The applicant shall submit an application, required supportive information, and application fee.
- B. The Plan Commission will then review the application and required supportive information. The Plan Commission may recommend approval, recommend denial or table the petition.
- C. At the Planning Commission meeting the Planning Director may submit a report containing factual information about the petition and a statement for support or denial of the petition.
- D. If the petition has not been tabled, it will then be forwarded to Common Council for review. The Common Council will review the application, required supportive material and Plan Commission recommendation. The Council may approve, deny or table the petition after three readings.
- E. Upon reviewing a zoning amendment petition the following should be considered:
 - The Comprehensive Plan.
 - Current conditions and character of structures and uses in each district.
 - The most desirable use for which the land in each district is adapted.
 - The conservation of property values throughout the jurisdiction.
 - Responsible development and growth.
- F. Written Commitments
 - a. The Plan Commission may permit or require written commitments concerning use or development of the property which is the subject of a Zoning Amendment petition.
 - b. If the Common Council adopts (as certified) the petition, then the owner of the property shall have the written commitment recorded and submit a copy of the recorded written commitment to the Planning Director before the Zoning Amendment can become effective.
 - c. A written commitment shall be considered a covenant running with the land and is binding on the Zoning Amendment applicant, the owner of the property which is the site of the Zoning Amendment, any subsequent owners of the property, and any person who acquires an interest in the property.
 - d. Enforcement – Written commitments may be enforced in accordance with Article 10, Enforcement and Penalties.
 - e. Modification and Termination – A written commitment required for a Zoning Amendment approval may be modified or terminated by the Plan Commission at a public hearing. The owner of the property, the Planning Director or the Plan Commission may initiate the request to modify or terminate the written commitment. However, a written commitment terminates if the zoning for the parcel changes in the future.

Planned Development Approval

9.10 Planned Development Approval

- A. The general procedure for establishing a planned development (PD) is as follows:
- a. Prior to filing for a rezone petition, the applicant must submit a conceptual sketch plan to the Planning Director. The Planning Director will make a cursory review of the conceptual plan and give the applicant comments within thirty (30) days of submission.
 - b. The applicant files a rezone petition to the PD classification and detailed development plan to the Plan Commission. If a subdivision plat is necessary prior to an Improvement Location permit it shall be filed at this time and shall follow those procedures set forth in the Kokomo Subdivision Control Ordinance.
 - c. The Plan Commission will schedule a public hearing for the rezoning of the property and for review of the detailed development plan.
 - d. The Plan Commission will give a favorable or unfavorable recommendation to the Common Council to grant or deny the rezoning request.
 - e. The Common Council will, within 30 days, review the rezoning petition, the recommendation from the Plan Commission and vote to approve or disapprove the request.
 - f. If the Common Council approves the rezoning, the land is officially rezoned and the applicant may move forward with the detailed development plan approval process.
 - g. The Official Zoning Map must be amended to reflect the zoning change, date of approval by the Common Council, and the docket number.
 - h. The Plan Commission must approve the detailed development plan prior to the issuance of an improvement location permit. If a subdivision plat is required, the secondary plat must be approved prior to the issuance of an improvement location permit pursuant to the Kokomo Subdivision Control Ordinance.
 - i. When approved, the detailed development plan shall be stamped and signed by the Plan Commission president and secretary. The applicant may then begin procedures for obtaining Improvement Location and Building Permits.

[Note: Detailed descriptions of each general step outlined above are discussed in the following sections.]

B. Conceptual Site Plan Review

- a. Prior to filing for a rezone petition, the applicant shall submit a conceptual site plan to the Planning Director. The Planning Director shall review the conceptual site plan and give the applicant comments within 30 days of submission.
- b. In reviewing the conceptual site plan the extent to which the proposal fulfills the intent of Article Seven and the spirit and intent of the Comprehensive Plan will be considered.
- c. The applicant may, if desired, also submit the conceptual site plan for the Plan Commission to review.
- d. After the applicant has received conceptual review, he/she may file a rezone petition to the PD classification and detailed development plan to the Plan Commission.

C. Conceptual Site Plan Data

The scale of the plan shall not exceed 1 inch equals 100 feet. The conceptual site plan may include any additional graphics which will explain the features of the development. The following shall be included in the conceptual site development plan submission:

- a. Description.
 1. Name and address of the applicant.
 2. Proof of ownership.

Planned Development Approval

(Continued)

3. Proposed name of development (if applicable).
 4. Address of the site.
 5. Legal description of the real estate.
 6. Name and address of land surveyor.
 7. Legend and notes, including a graphic scale, north point, and date.
 8. A separate location map, to scale, showing the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land.
- b. Existing and Proposed Conditions.
1. Existing and proposed layout of streets, open space and other basic elements of the plan.
 2. Existing and proposed easements and their purpose.
 3. Location of natural streams, regulated drains, 100-year floodplains, floodway, water courses, marshes, wooded areas, isolated preservable trees, wetlands, historic features, existing structures, dry wells, utility lines, fire hydrants and any other significant feature(s) that may influence the design of the development.
 4. General description of, location of, and types of structures on the site.
 5. Proposals and plans for handling traffic, parking, sewage disposal, tree preservation and removal, lighting, signage, landscaping, and other pertinent development features.
 6. A general statement of the covenants to be made a part of the planned development as well as the order and estimated time of development.
 7. A statement of the proposed order of development of the major elements of the project. This includes phasing, if applicable, and the order and content of each phase.
 8. The land use categories within the development, including proposed densities of said uses.
- D. Filing Procedure
- a. The applicant shall submit for review the rezoning request and detailed development plan 30 days prior to a scheduled Plan Commission public hearing.
 - b. The petition shall be signed by the owner or owners of all real estate involved in the petition for the planned development, or shall have attached thereto letters of consent to change to a PD classification by all such owners prior to the filing.
 - c. If a subdivision plat is necessary in conjunction with the rezone petition, the primary (preliminary) plat shall also be filed at this time for review by the Plat Review Committee and shall follow those procedures set forth in the Kokomo Subdivision Control Ordinance. However, any such approval shall be conditioned upon Common Council approving the rezone request to a PD district.
 - d. The Plan Commission will schedule a public hearing for the rezoning of the property and for review of the detailed development plan.
- E. Detailed Development Plan Data
- The scale of the plan shall not exceed 1 inch equals 100 feet. The detailed development plan may include any additional graphics which will explain the features of the development. The following shall be included in the detailed development plan submission:
- a. All documents and information included in the conceptual site plan, as updated and/or amended.
 - b. Improvement plans for all infrastructure improvements required or proposed in the PD.
 - c. Proposed covenants, conditions or restrictions.
 - d. Compilation of information shall:
 1. Include an index identifying all documents included in the detailed development plan.
 2. Include a cover sheet indicating that it is the detailed development plan and indicating the date and case number.

Planned Development Approval

(Continued)

3. Be bound together and all documents submitted on paper 8-1/2 x 11 inches in dimension, except for the maps, sketches, plans and conceptual layout(s) which must be folded to 8 1/2 x 11 inches.
- F. Detailed Development Plan Approval
- a. In their review of the detailed development plan the Plan Commission should consider the extent to which the proposal fulfills the intent of Article Seven and the spirit and intent of the Comprehensive Plan.
 - b. Upon review, the Plan Commission will give a favorable or unfavorable recommendation to the Common Council to grant or deny the rezoning.
 - c. The Plan Commission may permit or require written commitments concerning the use or development of the property in connection with a favorable recommendation of the rezoning request or detailed development plan approval of a PD.
 - d. If the Plan Commission gives an unfavorable recommendation, the applicant may revise the proposed detailed development plan and resubmit the revised detailed development plan within 30 days to the Plan Commission.
 - e. The Common Council will, within 30 days, review the rezoning petition, the recommendation from the Plan Commission and vote to approve or disapprove the request.
 - f. If the Common Council disapproves the rezoning, the applicant must wait one (1) year before resubmitting another petition.
 - g. If the Common Council approves the rezoning, the land is officially rezoned.
 - h. The Official Zoning Map must be amended to reflect the Zoning Change, date of approval by the Common Council, and the docket number.
 - i. Prior to signing of the detailed development plan surety shall be posted (if applicable) in an amount that is consistent with the cost of improvements outlined in the approved improvement plans.
 - j. Detailed development plan approval is required prior to the issuance of an improvement location permit. If a subdivision plat is required, the secondary (final) plat must be approved prior to the issuance of an improvement location permit pursuant to the Kokomo Subdivision Control Ordinance.
 - k. The Plan Commission may specify any additional plan documentation or supporting information not already stated that is required prior to the issuance of an improvement location permit.
 - l. When approved, the detailed development plan shall be stamped and signed by the Plan Commission President and Secretary.
 - m. All written commitments shall be recorded with the Howard County Recorder and must clearly state that they are enforceable by, as a minimum, the Plan Commission.
 - n. Upon 100% completion of the development the public properties shall be dedicated to the City if required or allowed by the detailed development plan. Also, the Plan Commission or representative(s) will review the completed project for compliance to the detailed development plan.
- G. Minor Modifications
- a. The Planning Director may from time to time in its administration of the PD, approve minor modifications of the Development Plan or Improvement (construction) Plans without a public hearing in a manner consistent with the purpose or intent of the overall development. Such modifications shall not include any increase in density, any reduction in aesthetic treatment, any alteration of frontage, any change in type of use, or any change in access points.

Planned Development Approval

(Continued)

- b. An adversely affected party may appeal any decision by the Planning Director to the Plan Commission within 30 days of the determination. The Plan Commission has the authority to establish rules governing the nature of proceedings and notice required to make a modification under Article Seven.

H. Covenants and Maintenance

- a. Covenants, when required by the Plan Commission, shall be set forth in detail. Furthermore, covenants shall provide for the release of restrictions upon execution of a document so stating and suitable for recording, bearing signatures of the Plan Commission President and Secretary, upon authorization by the Plan Commission and signatures of all the owners of property in the area involved in the petition for whose benefit the covenant was created. Covenants required by the Plan Commission shall provide that their benefits be specifically enforceable by the Commission. An executed recorded copy shall be provided to and maintained in the Plan Commission office.
- b. Adequate provision shall be made for a private organization (i.e., Home Owner Association) with direct responsibility to, and control of the property owners involved to provide for the operation and maintenance of all common facilities if such facilities are a part of the planned development, and, in such instance legal assurances shall be provided which show that the private organization is self-perpetuating.
- c. All common facilities not dedicated to the public shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

I. Recording

All approved covenants, commitments, and plats thereof shall be recorded in the office of the Howard County Recorders Office within 10 days of approval. The developer shall provide 2 copies bearing recording information to the Plan Commission for its records.

J. Construction

- a. No construction or installation work may commence on any public improvements until satisfactory improvement plans and specifications have been submitted and approved by the Plan Commission and until the applicant provides, at least 48 hours notice to the City Engineer or entity having jurisdiction of the public facility, in order that inspections may be made as the work progresses.
- b. All development shall be in conformity with the approved detailed development plan and improvement plans. Any material deviation from the plans is subject to appropriate enforcement action.

K. Extension, Abandonment, Expiration

- a. An extension, not to exceed 12 months, for accomplishing any matters set forth within Article Seven may be granted by the Plan Commission for good cause shown.
- b. Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no (or minimal) improvements have been made pursuant to the approved detailed development and improvement plans for 9 consecutive months), or upon the expiration of 3 years from the approval of the detailed development and improvement plans for a development which has not been completed, the land will revert to the base zoning district. The Plan Commission may grant one (1) 12 month extension. If an extension for expiration is granted such extension shall be recorded.

Planned Development Approval

(Continued)

L. Rules of Procedure

All proceedings brought under this section are subject to the Rules of Procedure of the Plan Commission, where not described otherwise herein.

M. Written Commitments

- a. The Plan Commission may permit or require written commitments concerning use or development of the property which is the subject of a petition for rezoning to Planned Development.
- b. If the Common Council adopts (as certified by the Plan Commission) the petition, then the owner of the property shall have the written commitment recorded and submit a copy of the recorded written commitment to the Planning Director before the Planned Development can become effective.
- c. A written commitment shall be considered a covenant running with the land and is binding on the Planned Development applicant, the owner of the property which is the site of the Zoning Amendment, any subsequent owners of the property, and any person who acquires an interest in the property.
- d. Enforcement – Written commitments may be enforced in accordance with Article 10, Enforcement and Penalties.
- e. Modification and Termination – A written commitment required for a Planned Development approval may be modified or terminated by the Plan Commission at a public hearing. The owner of the property, the Planning Director or the Plan Commission may initiate the request to modify or terminate the written commitment. However, a written commitment terminates if the zoning for the parcel changes in the future.”

Administrative Appeal

9.11 Administrative Appeal

The following procedure applies to Administrative Appeal Petitions:

- A. The applicant shall submit a written statement specifying the grounds for the appeal and any applicable supporting material within 30 days of the decision alleged to be in error.
- B. The administrative official or body from the which appeal is taken shall transmit to the Board of Zoning Appeals all documents, plans and papers constituting the record of action from which the appeal is taken.
- C. Administrative appeals require public notice in the newspaper per I.C. 5-3-1-2 and 5-3-1-4.
- D. At their next regularly scheduled public meeting, the BZA shall then review:
 - The written statement and supportive material submitted by the applicant;
 - The record of action supplied by the administrative official or body from the which appeal is taken;
 - The testimony of the applicant; and
 - The testimony of the administrative official or body from which the appeal is taken.
- E. The BZA may grant, deny, or table the appeal. The BZA may add conditions to any application which was approved at the appeal stage.

Questionable Land Use Appeal

9.12 Questionable Land Use Appeal

The following procedure applies to questionable land use appeal petitions:

- A. The petitioner shall submit a written statement specifying the grounds for the appeal and any applicable supportive material to the Planning Director. This will also include:
 - a. The proposed land use,
 - b. The existing zoning district,
 - c. The lot's address,
 - d. The property owner's name, address, and contact information.
 - e. The property petitioner's name, address, and contact information (if different).
- B. The Planning Director will review the petition for a Questionable Land Use and determine if the proposed land use is significantly like a permitted or special exception land use or if the proposed land use is not significantly like a permitted or special exception land use.
- C. If the proposed land use is significantly like a permitted or special exception land use in the subject zoning district, then the Planning Director may approve, deny or forward the decision to the BZA. If the Planning Director approves the land use, the petitioner will receive written notice of said approval. If the Planning Director deny's the land use, the petitioner may appeal the Planning Director's decision to the BZA. And if the Planning Director forwards it to the BZA for a decision, the information shall be forwarded to the BZA and will be scheduled for a hearing at the earliest BZA meeting with sufficient space on the docket.
- D. If the proposed land use is not significantly like a permitted or special exception land use in the subject zoning district the Planning Director must forward the decision to the BZA.
- E. If the decision is forwarded to the BZA, the decision will be made by majority vote once all the information is presented to the BZA in a regularly schedule meeting. The BZA may approve or deny the petition for a questionable land use.

Schedule of Fees

9.13 Schedule of Fees

The Common Council shall maintain an Official Fees Schedule for permits and processes outlined in this Zoning Ordinance. Penalties, collection procedures for permits and penalties, appeals process, and other petition processes pertaining to this Zoning Ordinance are considered a part of this Zoning Ordinance. The Fees Schedule shall be available to the public in the office of the Clerk and the Planning Director. The Fees Schedule may be amended by a recommendation submitted to the Common Council by the Plan Commission followed by the Common Council approving said amendments by resolution.

Until all applicable fees, charges, and expenses have been paid in full, no final action shall be taken on any permit application, appeal, or petition.

Notification of Public Hearing

9.14 Notification for Public Hearing

The following information pertains to processes that require a public hearing.

- A. Public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and due notice to interested parties shall be given at least 10 days before the date set for the hearing.
- B. The party pursuing the request shall be required to assume costs of public notice and notice to interested parties. Interested parties shall include, but are not limited to, all properties adjacent within one (1) property deep of the subject property when within or outside the planning jurisdiction.
- C. In addition, notice shall be posted by the applicant in a conspicuous place on the subject property at least 10 days prior to the date of the hearing. Notice signs will be provided by the Plan Commission. The party pursuing the request shall post the sign at least 10 days before the date set for the hearing.